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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,331	01/22/2001	Adolfo Pinheiro Vide	04324.P038	9335
25920	7590	05/05/2004	EXAMINER	
MARTINE & PENILLA, LLP 710 LAKEWAY DRIVE SUITE 170 SUNNYVALE, CA 94085			ALAVI, AMIR	
			ART UNIT	PAPER NUMBER
			2621	10
DATE MAILED: 05/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/767,331	Applicant(s) VIDE, ADOLFO PINHEIRO
Examiner	Art Unit 2621	
Amir Alavi		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 22 January 2001.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-96 is/are pending in the application.  
4a) Of the above claim(s) 56-65 and 87-96 is/are withdrawn from consideration.

5)  Claim(s) 35-46 and 66-77 is/are allowed.

6)  Claim(s) 1-7, 10, 18-24, 27, 47, 48, 50, 78, 79 and 81 is/are rejected.

7)  Claim(s) 8, 9, 11-17, 25, 26, 28-34, 49, 51-55, 80 and 82-86 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Claim Rejections - 35 USC § 102**

➤ The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

➤ Claims 1-7, 10, 18-24, 27, 47-48, 50, 78-79 and 81 rejected under 35 U.S.C. 102(b) as being anticipated by Acker et al., hereinafter, "Acker" (US 6,009,209).

Regarding claim 1, Acker discloses: partially automatically defining an outline of an area in an image within which area red eye correction is to be carried out (Please note, figures 1 and 2 in correlation to column 4, lines 60-62. As indicated an editing technique is automatically applied to each of the pixels in the area of a red eye artifact in an original image based on a grouping of the pixels into regions of the artifact image. In this regard Examiner considers this editing to correspond to Applicant's correction and the different regions to contain outlines); and carrying out red eye correction only within the area (Please note, column 4, lines 62-65. As indicated the editing technique includes the generation of a corrected image of a pupil that is composited with the original or source image to create a new image in which the red eye artifact has been removed).

Regarding claim 2, Acker discloses, wherein the area is a circular region (Please note, column 6, lines 13-15. As indicated the automatic identification of the red eye region is based on characteristics common to all red eye artifacts, e.g., its shape tends to be circular).

Regarding claim 3, Acker discloses: receiving a user input which centers the area within an eye (Please note, column 6, lines 10-15. As indicated a user may simply mark a single point within the area of the red eye artifact, which is then used to automatically identify the border of the region, this automatic identification of the red eye region is based on characteristics

common to all red eye artifacts, e.g., its shape tends to be circular); and automatically defining the extent of the area based at least partially on color of locations in the area (Please note, column 5, lines 1-2. As indicated automatically parsed into regions and then re-colored based on standardized color criteria for each of the regions).

Regarding claim 4, Acker discloses, wherein the area is a circular region (Please note, column 6, line 15. indicative of circular shape).

Regarding claim 5, Acker discloses, wherein the circular region is not necessarily centered in accordance with the user input (Please note, column 6, line 13. As indicated an automatic identification).

Regarding claim 6, Acker discloses, wherein the automatically defining includes re-centering the area (Please note, figure 2d).

Regarding claim 7, Acker discloses, wherein the automatically defining includes employing a redness criterion for defining the area (Please note, column 7, lines 5-20).

Regarding claim 10, Acker discloses, wherein the automatically defining includes applying a redness criterion to a periphery of the area (Please note, column 7, line 14. As indicated the third region is the peripheral region 67a).

Regarding claims 18-24, arguments analogous to those presented for claims 1-7, respectively, are applicable.

Regarding claim 27, arguments analogous to those presented for claim 10 are applicable.

Regarding claim 47, Acker discloses: displaying an image on a display device (Please note, figure 1, element 32); receiving from a user an indication of a selected location within the displayed image (Please note, column 5, lines 6-8. As indicated correction of the image is done by removing the red eye artifact by a user of the computer system 20 of figure 1); partially automatically defining an outline of an area in the image within which area red eye correction is to be carried out (Please note, figures 1 and 2 in correlation to column 4, lines 60-62. As indicated an editing technique is automatically applied to each of the pixels in the area of a red eye artifact in an original image based on a grouping of the pixels into regions of the artifact image. In this regard Examiner considers this editing to correspond to Applicant's correction and the different regions to contain outlines), by the client computer, based on the user's selected location (Please note, figure 1, element 22); carrying out red eye correction on the image only within the area (Please note, column 4, lines 62-65. As indicated the editing technique includes the generation of a corrected image of a pupil that is composited with the original or source image to create a new image in which the red eye artifact has been removed); and transmitting parameters of the area to a server computer (Please note, column 4, lines 43-46. As indicated the image

file can be sent to a remote site by way of a modem connection or it can be sent to a printer connected to the computer system 20. The FlashPix standard provides an exemplary protocol for uniform transmitting and receiving of these graphical image files).

Regarding claim 48, Acker discloses, wherein the area is a circle and the parameters of the area include the center and diameter of the circle (Please note, column 6, lines 13-15. As indicated this automatic identification of the red eye region is based on characteristics common to all red eye artifacts, e.g. its shape tends to be circular).

Regarding claim 50, Acker discloses, wherein the partially automatically defining determines the area so as to tightly cover pixels that exhibit red eye (Please note, column 6, lines 13-15. As indicated this automatic identification of the red eye region is based on characteristics common to all red eye artifacts, e.g. its shape tends to be compact).

Regarding claims 78-79, 81 arguments analogous to those presented for claims 47-48, 50 respectively, are applicable.

## **Allowable Subject Matter**

- Claims 35-46 and 66-77 are allowed.
- Claims 8-9, 11-17, 25-26, 28-34, 49, 51-55, 80 and 82-86 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
- The following is a statement of reasons for the indication of allowable subject matter: None of the prior art disclose or fairly suggest wherein having a high resolution image and transmitting a low resolution image derived from the high resolution image, while displaying the low resolution image on a display device and receiving from a user an indication of a selected location within the displayed low resolution image and partially automatically defining an outline of an area in the low resolution image within which area red eye correction is to be carried out.

### **Other prior art cited**

- The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hardeberg (US 6,728,401 B1) is pertinent as teaching red eye removal using color image processing.

Kinjo et al. (US 6,631,208 B1) is pertinent as teaching wherein an image of a pupil portion is extracted and red eye correction processing is carried out.

Marni (US 6,285,410 B1) is pertinent as teaching method and system for removal of flash artifacts from digital images.

Yamamoto (US 6,577,751 B2) is pertinent as teaching image processing method capable of correcting red eye problem.

Chen et al. (US 6,690,822 B1) is pertinent as teaching method for detecting skin color in a digital image.

Eschbach (US 6,718,051) is pertinent as teaching red eye detection method.

Benati et al. (US 5,748,764) is pertinent as teaching automated detection and correction of eye color defects due to flash illumination.

Dobbs et al. (US 5,130,789) is pertinent as teaching localized image recoloring using ellipsoid boundary function.

## Contact Information

- Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Amir Alavi whose telephone number is (703) 306-5913.
- The Examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 6:30 p.m. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Leo Boudreau, can be reached at (703) 305-4706.

Any response to this action should be mailed to:

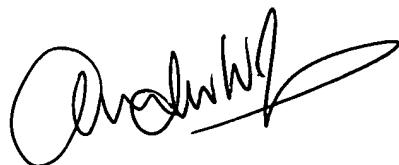
Assistant Commissioner for Patents

Washington, D.C. 20231

**Or faxed to:**

(703) 872-9306, ("draft" or "informal" communications should be clearly labeled to expedite delivery to Examiner)

**Hand delivered responses** should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application should be directed to the T.C. Customer Service Office whose telephone number is (703) 306-0377.



ANDREW W. JOHNS  
PRIMARY EXAMINER

AA  
Group Art Unit 2621  
29 April 2004